

REMARKS

The Official Action of November 26, 2007, made final, and the references cited therein have been carefully considered. The Applicant respectfully requests reconsideration of the application in view of the following remarks. Claims 23-28 and 30 have been canceled without prejudice.

1. Claims 29 and 31 are pending in the application.
4. Applicants gratefully acknowledge that the rejection of Claims 15-17 rejected under 35 U.S.C. 112, first paragraph, has been withdrawn
- 5 Applicants gratefully acknowledge that the rejection of Claims 1-17 and 21 under 35 U.S.C. 102 (b) or 35 U.S.C. § 103(a) has been withdrawn.
6. Although it is not clearly stated by the Examiner, Applicants presume that Claims 23-31 currently stand rejected under 35 U.S.C. § 103(a) as being obvious over Goldsworthy et al. US 4,595,540 [presumably alone]. Applicants note that the previous rejection was over Goldsworthy et al. US 4,595,540 in view of Wojcik et al. publication, Curr. Opin. Investig. Drug, 2001, 2(8): 1112-9

The Applicants respectfully traverse this rejection and provide the following comments. The Applicants respectfully assert that Goldsworthy et al. does not disclose or suggest the claimed invention. Nor would Goldsworthy et al. have motivated or enabled one skilled in the art to employ the subject compounds in accordance with the claimed invention. Moreover, in view of the state of the art, one skilled in the art would have been discouraged from the compounds of the claimed invention.

Goldsworthy et al. discloses compounds, which have activity as leukotriene antagonists, which are useful as e.g. anti-asthmatic agents. In contrast, the present compounds are potentiators of metabotropic glutamate receptors, which are useful for treating neurological or psychiatric disorders.

The present claims are directed to compounds wherein W is tetrazolyl, X is -O-, Y is -O-, m is 0 (zero), and n is 4, which are structurally distinct from the compounds of Goldsworthy et al.

Applicants respectively submit that there would have been no motivation nor guidance for one of ordinary skill in the art to have selected the compounds of Goldsworthy et al. having activity as leukotriene antagonists and then to have modified compounds with respect to W is tetrazolyl, X is -O-, Y is -O-, m is 0 (zero), and n is 4, to prepare the instant compounds which have activity as potentiators of metabotropic glutamate receptors.

The Examiner stated that "[t]he motivation to obtain the claimed compounds/compositions derives from known Goldworthy et al. compounds/compositions which possess similar activities (i.e. agents for pharmaceutical compositions) to that which is claimed in the reference." Applicants respectfully submit that merely because Goldworth et al. discloses that their compounds have activity as "agents for pharmaceutical compositions" would not have provided sufficient motivation to prepare the instant compounds which have activity as potentiators of metabotropic glutamate receptors.

Accordingly, Applicants respectfully submit that the rejection of Claims 23-31 under 35 U.S.C. § 103(a) for obviousness over Goldsworthy et al. is untenable and should be withdrawn.

7. Applicants gratefully acknowledge that the rejection of Claims 1-17 and 21 for obviousness-type double patenting over Claim 1 of Doebber et al. or over claim 2 of Belanger et al., in view Wojcik et al. has been withdrawn.

Although it is not clearly stated by the Examiner, Applicants presume that Claims 23-31 stand rejected under 35 U.S.C. § 103(a) as being obvious over Doebber et al. (U.S. Patent No. 6,020,382) [presumably alone] or Belanger et al. US 4,595,540 [presumably alone]. Applicants note that the rejection in the previous action was over Doebber et al. (U.S. Patent No. 6,020,382) in view of Wojcik et al. publication, Curr. Opin. Investig. Drug, 2001, 2(8): 1112-9, or over Belanger et al. US 4,595,540 in view of Wojcik et al. publication, Curr. Opin. Investig. Drug, 2001, 2(8): 1112-9.

The Examiner states "[t]he instant compounds of formula (I) of Claims 23-31 do not render obviousness over Doebber et al. US 6,020,382 or over Belanger et al. US 4,820,867."

Applicants presume that Claims 23-31 are rejected under 35 U.S.C. § 103(a) as being obvious over Doebber et al. (U.S. Patent No. 6,020,382) [presumably alone] or Belanger et al. US 4,595,540 [presumably alone] and will respond accordingly.

The Applicants respectfully traverse this rejection and provide the following comments. The Applicants respectfully assert that Doebber et al. does not disclose or suggest the claimed invention. Nor would Doebber et al. have motivated or enabled one skilled in the art to employ the subject compounds in accordance with the claimed invention. Moreover, in view of the state of the art, one skilled in the art would have been discouraged from the compounds of the claimed invention.

Doebber et al. discloses compounds, which have activity for lowering or modulating triglyceride, cholesterol or high density lipoprotein levels, which are useful as e.g. antidiabetic agents. In contrast, the present compounds are potentiators of metabotropic glutamate receptors, which are useful for treating neurological or psychiatric disorders.

The present claims are directed to compounds wherein W is tetrazolyl, X is -O-, Y is -O-, m is 0 (zero), and n is 4, which are structurally distinct from the compounds of Doebber et al.

Applicants respectively submit that there would have been no motivation nor guidance for one of ordinary skill in the art to have selected the compounds of Doebber et al. having activity as antidiabetic agents and then to have modified compounds with respect to W is tetrazolyl, X is -O-, Y is -O-, m is 0 (zero), and n is 4, to prepare the instant compounds which have activity as potentiators of metabotropic glutamate receptors.

The Applicants respectfully assert that Belanger et al. does not disclose or suggest the claimed invention. Nor would Belanger et al. have motivated or enabled one skilled in the art to employ the subject compounds in accordance with the claimed invention. Moreover, in view of the state of the art, one skilled in the art would have been discouraged from the compounds of the claimed invention.

Belanger et al. discloses compounds, which have activity as leukotriene antagonists, which are useful as e.g. anti-asthmatic, anti-allergic or anti-inflammatory agents. In contrast, the present compounds are potentiators of metabotropic glutamate receptors, which are useful for treating neurological or psychiatric disorders.

The present claims are directed to compounds wherein W is tetrazolyl, X is -O-, Y is -O-, m is 0 (zero), and n is 4, which are structurally distinct from the compounds of Belanger et al.

Applicants respectively submit that there would have been no motivation nor guidance for one of ordinary skill in the art to have selected the compounds of Belanger et al. having activity as leukotriene antagonists and then to have modified compounds with respect to W is tetrazolyl, X is -O-, Y is -O-, m is 0 (zero), and n is 4, to prepare the instant compounds which have activity as potentiators of metabotropic glutamate receptors.

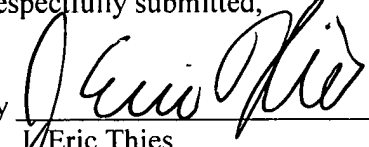
Accordingly, Applicants respectfully submit that the rejection of Claims 1-17 and 21 under 35 U.S.C. § 103(a) for obviousness over Doebber et al. or over Belanger et al. is untenable and should be withdrawn.

8. Because such rejections in the Official Action of November 26, 2007, have not been previously presented and are not due to Applicants' response, Applicants respectfully submit that the Official Action of November 26, 2007, should not have been made Final.

9. In the previous Official Action, Claim 13 was objected to as containing non-elected subject matter. In their previous response, Applicants withdrew their traverse and cancelled the non-elected subject matter from Claim 13 (now Claim 29) in the interest of compact prosecution. Accordingly, Applicants respectfully submit that the objection to the claim is untenable and should be withdrawn. Because Claims 29 and 31 are the only claims currently pending in the application, Applicants respectfully submit that such claims should be allowable.

Applicants respectfully contend that the application is allowable and a favorable response from the Examiner is earnestly solicited.

Respectfully submitted,

By 
J. Eric Thies
Reg. No. 35,382
Attorney for Applicant

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-3904

Date: February 26, 2008